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## CHAPTER 20 - TREES

Section 20-100. PURPOSE. The purpose of this ordinance is to establish policies to protect and enhance the City of Brooklyn Center's urban forest, to the extent found by the City Council to be practical within available financial and staff resources.

Section 20-101. MANAGEMENT. The director of public works or designee shall be responsible for developing policies regarding the care, preservation, planting, replanting, removal, or disposition of trees and shrubs in parks, in the public right of way, along trails, and in other public areas, and for developing an annual tree planting and maintenance plan.

Section 20-102. DEFINITIONS. The language set forth in this ordinance shall be interpreted in accordance with the following definitions.

**Boulevard.** The area between the edge of the street or the back of the curb where curb and gutter exist and the property line.

**Public tree.** Any tree or shrub located in any park, public right of way, trail, or other public space.

**Public space.** Includes but is not limited to the grounds of public buildings; designated open space; city owned property; street, alley, and trail rights of way.

### CARE AND MAINTENANCE OF TREES

#### Section 20-200. PUBLIC TREE CARE IN GENERAL.

**Subdivision 1. Care of Trees in Public Areas.** The City shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs in parks, in the public right of way, along trails, and in other public areas, as may be necessary or desirable to protect public safety or to preserve or enhance the symmetry and beauty of such public grounds.

**Subdivision 2. Removal of Unsafe Trees.** The City may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature or location is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect, or other pest.

**Subdivision 3. Planting Boulevard Trees.** No tree may be planted on the boulevard except by permit obtained from the director of public works or designee. The City may remove or cause or order to be moved or removed any boulevard tree not planted by permit, or any boulevard tree which is not in compliance with this code. This section does not prohibit the planting of boulevard trees by adjacent property owners providing the selection, location, and care of said trees are in accordance with the provisions of this code.

Section 20-201. TREE TRIMMING. The City shall have the authority to trim trees in parks and other public spaces. The City shall have the authority to trim boulevard trees, as needed, to allow the movement of the tallest pieces of street maintenance equipment along the streets. The property owner shall be responsible for aesthetic trimming; for trimming on any corner lot which is necessary to allow visibility at intersections in the sight triangle bounded by the property lines of said lot and a straight line joining points on such property lines 25 feet from their intersection of the property lines, pursuant to Section 35-560 of this code; for trimming of any boulevard tree or shrub which is necessary to maintain adequate sightlines for vehicles, bicycles, and pedestrians; and for any other trimming not specifically assigned to the City in this section.

Section 20-202. PRUNING AND REMOVAL OF DEAD BRANCHES AND TREES. Every owner of any tree within the City shall prune the branches so as to remove all dead, diseased, dangerous, or broken or decayed limbs. Any standing dead or fallen tree is hereby declared a public nuisance for purposes of sections 19-101 through 19-106 of this code. Any such tree shall be removed and disposed of promptly by the owner, or in the case of boulevard trees by the adjacent property owner. Standing and fallen dead trees located in public-owned nature areas or open spaces shall be removed at the discretion of the director of public works or designee.

Section 20-203. STORM DAMAGE. The City shall be responsible for cleanup of downed or broken limbs or otherwise storm damaged boulevard trees. The adjacent property owner is responsible for stump removal.

Section 20-204. STUMP REMOVAL. All boulevard stumps shall be removed four inches below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

Section 20-205. ABUSE OR MUTILATION OF TREES. No person shall intentionally damage, cut, carve, transplant, or remove any public tree; attach any rope, wire nails, advertising posters, or other contrivances to any public tree; allow any gaseous, liquid, or solid substance which is harmful to such trees to come into contact with them; or set any fire or permit any fire to burn when such fire or the heat thereof will injure any portion of the tree; or to direct or authorize such activity or circumstance.

Section 20-206. PRESERVATION STANDARDS. No Excavation Permit, Building Permit, Plat Approval, Site Plan Approval, or other relevant Permit or Approval may be granted until the director of public works or designee determines that the existing trees are adequately protected and preserved. Only adequately protected and preserved trees may be considered as providing credit toward site landscaping requirements for certain types of development detailed in Chapter 35 of this code.

## DETECTION AND CONTROL OF TREE DISEASES

Section 20-301. NUISANCE DEFINED. Any living or standing tree or part thereof infected to any degree with an infectious disease or which harbors any insect, fungi, or virus known to contribute to the spread of such disease is hereby declared to be a public nuisance.

Any dead tree or part thereof known to contribute to the spread of infectious diseases, including logs, branches, stumps, or firewood, is hereby declared to be a public nuisance.

Section 20-302. NUISANCE PROHIBITED. It shall be unlawful for the owner of any parcel of land in the City of Brooklyn Center to permit or maintain on any such parcel of land or upon abutting street right of way any tree or dead wood which is a public nuisance as defined in Section 20-301. It shall be the duty of any such owner to promptly abate the nuisance by removing and destroying such tree or dead wood in a manner authorized by the city manager or his duly authorized representative.

Section 20-303. INSPECTIONS AUTHORIZED. In order to carry out the purposes of this ordinance and to implement the enforcement thereof, the city manager or his duly authorized representative is hereby authorized and empowered to enter upon any parcel of land in the City of Brooklyn Center at all reasonable hours for the purpose of inspecting any trees or dead wood situated thereon and removing specimens therefrom for laboratory or field analysis. It shall be unlawful for any person to prevent or interfere with the city manager or his duly authorized representative in the performance of any duties provided for in this ordinance.

Section 20-304. NOTICE TO ABATE NUISANCE. If it is determined that a public nuisance exists on a parcel of land or abutting street right of way, the city manager shall cause to be served upon the owner of the parcel of land a written notice requiring such owner to abate the nuisance. Written notice shall be served by mail, addressed to the owner of the parcel at his last known address. If the owner upon whom such notice is served fails, neglects, or refuses to abate the nuisance within 20 days after mailing such notice, the city manager or his duly authorized representatives shall serve official notice in person or by certified mail, proceed to abate the nuisance five (5) days after receipt of such notice, and charge the cost thereof against the owner to be paid by such owner to the City of Brooklyn Center.

Section 20-305. ASSESSMENT OF UNPAID CHARGES. Each year the city clerk shall list the total unpaid charges for each nuisance abatement attributable to respective parcels of land pursuant to the provisions of Minnesota Statutes Chapter 429. The city council shall levy such unpaid charges as special assessments against respective parcels of land, certifying such special assessments to the county auditor. The special assessments of such unpaid charges shall be in addition to any penalties imposed against the owner of a parcel of land for violation of the provisions of this ordinance.

Section 20-306. CITY COST PARTICIPATION. The City shall pay 50 percent of the cost of removal of diseased boulevard trees, provided such removal is conducted under the City's annual Diseased Tree Removal contract.

### PLANTING OF TREES

Section 20-400. DISTANCE FROM EDGE OF STREET OR SIDEWALK. Where there is no sidewalk, no tree may be planted closer than eight feet from the edge of the street, or from the back of the curb where curb and gutter have been installed. Where there is a sidewalk and the boulevard is greater than twelve feet wide, boulevard trees are permitted provided they are planted no closer than six feet from the edge of the street or from the back of the curb, and no closer than three feet from the edge of the sidewalk. Where there is a sidewalk and the boulevard is between six and twelve feet wide, boulevard trees are permitted provided they are planted in the middle of the boulevard. Where there is a sidewalk and the boulevard is less than six feet wide, no boulevard trees may be planted. Any trees planted within sidewalks must be planted utilizing tree grates. Such sidewalk planting is subject to design details approved by the director of public works. No tree may be planted closer than four feet from the edge of the sidewalk on the side opposite the street.

Section 20-401. UTILITIES. No boulevard trees other than those which may attain a maximum height of 25 feet or less at maturity may be planted under or within 10 lateral feet of any overhead utility wire. No boulevard tree may be planted over or within 5 lateral feet of any underground water line, sewer line, transmission line, or other utility.

Section 20-402. RECOMMENDED TREE SPECIES. The City promotes a diverse urban forest so as to minimize the spread of tree disease. To assist in meeting this goal, the City Council shall annually adopt a resolution designating allowable boulevard tree species.

### REGISTRATION OF TREE TRIMMERS/REMOVERS

Section 20-501. REGISTRATION REQUIRED. It shall be unlawful for any individual, partnership, or corporation to conduct as a business the cutting, trimming, pruning, removing, spraying, or otherwise treating of trees or shrubs in the City without first having secured a registration from the City to conduct such business. Application for the registration is made through the City Clerk or designee. Registration will be granted upon proof that the applicant meets the requirements of section 20-502. The annual fee for registration is set by Council resolution from time to time. The registration expires annually on December 31. Registration is not transferable. The registration fee must be paid to the clerk at the time of application. The registration fee will not be prorated.

Section 20-502. REGISTRATION REQUIREMENTS. The applicant must file with the clerk a certificate of insurance showing the applicant has purchased public liability and worker's compensation insurance which will remain in effect for the term of the registration, and that the insurance will not be canceled without 10 days notice to the City. The policy or policies of public liability insurance shall provide public liability coverage to the applicant in the amount of \$100,000 for bodily injury to or death of one person per occurrence, \$300,000 because of bodily injury to or death of more than one person or occurrence, and \$100,000 property damage coverage per occurrence, and shall name the City as an additional insured.

Section 20-900. PENALTIES. Any person, firm, or corporation violating any provision of this chapter, by failing, neglecting, or refusing to comply with the provisions thereof, upon conviction thereof, shall be punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.